

City Staffing and Facility Needs Assessment

GULF SHORES, ALABAMA

FINAL REPORT

matrix 
consulting group

June 30, 2020

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1. Introduction and Executive Summary

The Matrix Consulting Group was retained by the City of Gulf Shores to prepare a staffing and facility space study for all city departments excluding the school system. As a result of spatial deficiencies and significant development activity occurring within the City, the City Council desired a review of current and 20-year projected staff and space needs. After development of current staff and space needs, the project team created four scenarios to address the 20-year space needs.

The following sections provide a background of the scope of services, the results of the staffing analysis, facility assessments, space projections, and facility development scenarios.

1. Project Background, Scope of Work and Approach

Gulf Shores is located along the Alabama gulf coast and the economy is driven primarily by tourism. In addition to a significant number of visitors, the City has experienced a steady increase in resident population over the past 10 years. In 2019, the City took over the local schools, which has resulted in an increase in the number of requests for voluntary annexation. This staffing and facility study was undertaken by the City as a result of the current and forecasted increase in service demand.

The scope of services consisted of the following five major tasks:

- 1) Profile existing operations and current service levels.
- 2) Conduct a walk-through facility analysis of all city owned facilities and sites.
- 3) Conduct a workload and staffing analysis for each department.
- 4) Develop space projections by department in 5-year increments through 2040.
- 5) Create four scenarios to accommodate current and future staffing, space, and facility needs.

The staffing and space needs assessment began in November 2019. The scope of work was accomplished through the completion of the following activities:

- **Interviews with City staff:** The project team met with representatives from all City departments to gain an understanding of the City's current staffing, space allocations and operational practices.
- **Developed a Profile of City Operations:** Based upon interviews with staff and data collection efforts, a profile was developed outlining the City's current and historical staffing trends, the organizational structure of each department, and current facility needs and related issues. This profile is attached to this report as an appendix.

- Conducted a Walkthrough Assessment of All City Facilities:** The project team walked through each facility to gain a detailed understanding of current conditions, spatial and operational issues, as well as rating the general condition of each facility and related infrastructure. Additionally, each facility was assessed as a candidate for continued and future use. This approach provided context and an understanding of current spatial allocation, facility issues and the overall condition of each facility and site.
- Projected Workloads and Staffing Needs:** Based on the data collected and interviews with each department, the project team completed a workload and staffing analysis. Workload and staffing needs were projected in five year increments.
- Projected Space Needs:** Upon the completion of projecting future staffing needs, the project team developed space standards. Space standards were applied to the staffing needs and to projected office and workspace space needs. Space needs were also determined for support space (e.g. conference rooms, storage, etc.) by department.
- Developed Facility Options:** Once the total amount of space needed by department was calculated it was used to developed four scenarios to address future space shortfalls. Scenarios included a combination of new construction, renovation and expansion of existing facilities and sites to meet the 2040 space needs of the City.

This assessment identified current (2020) and projected (2025, 2030, 2035, and 2040) staffing needs based on projected workload. This staffing projection was used to form the current projected space needs, which led to the project team developing facility options to address the shortfall of space today and over the next 20 years.

2. Summary of Staffing Needs

The project team analyzed the staffing needs for each City department based on current and projected workload. This analysis included maintaining or improving (as needed) the current level of service provided both internally to other departments and to the citizens of Gulf Shores.

The following table summarizes the staffing recommendations by department. The subsequent narrative in the staffing chapter will provide greater detail for the staffing analysis and will indicate specific position changes.

Current and Projected Staffing Needs

Department	Current Authorized	Projected Staffing (2020)	Projected Staffing (2025)	Projected Staffing (2030)	Projected Staffing (2035)	Projected Staffing (2040)
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**Staffing
(2020)**

Executive Office	4.0	4.0	5.0	5.0	5.0	5.0
City Clerk	3.0	3.0	3.0	3.0	3.0	3.0
Finance						
Revenue	6.0	6.0	6.5	7.0	7.0	7.5
Purchasing	2.0	2.0	2.0	3.0	3.0	3.0
Accounting	3.5	3.5	3.5	4.0	4.0	4.0
Finance Admin	1.0	1.0	1.0	1.0	1.0	1.0
Finance Total	12.5	12.5	13	15	15	15.5
Human Resources	3.0	3.5	3.5	4.0	4.0	4.0
Information Technology	6.0	6.0	6.0	7.0	7.0	7.0
Municipal Court	4.0	4.0	4.0	5.0	5.0	6.0
Police Department	69.5	75.5	80.5	88.5	93.5	101.5
Fire Rescue	55.0	55.0	56.0	68.0	68.0	68.0
Planning and Zoning	5.0	5.5	6.0	7.0	7.0	7.0
Building	7.0	7.0	7.0	8.0	8.0	9.0
Recreation & Cultural Affairs	42.0	44.0	44.0	45.0	45.0	45.0
Museum	1.5	1.5	1.5	2.0	2.0	2.0
Library	8.0	8.0	8.0	8.0	8.0	8.5
Public Works	54.0	55.0	56.0	61.0	62.0	63.0
Engineering	6.5	6.5	6.5	6.5	6.5	6.5
Total Staff	281.0	291.0	300.0	333.0	339.0	351.0

A total of 291 positions are recommended today, an increase in 10 staff than currently authorized. A total of 351 positions are recommended in 2040, an increase in 70 positions (25%) over the currently authorized staffing levels.

3. Facility Condition Assessment Summary

The project team conducted a walk-through assessment of each city owned facility to evaluate the potential for current and future use. Overall, the City's facilities are well maintained and range from excellent to fair condition. The one notable exception would be the Police Headquarters which has both operational and facility condition issues.

The following table summarizes the facility assessment analysis.

Facility Assessment Summary

Facility	Overall Rating	Site Condition	Building Rating	Recommendation
Activity Center	Good	Good	Good	Maintain current use
City Hall	Good	Good	Poor	Renovate to create greater efficiencies. Increase signage and designate public parking spaces
City Store	Good	Good	Good	Maintain current use
Civic Center	Good	Good	Good	Maintain current use
Cultural Center	Good	Good	Good	Maintain current use
Municipal Complex	Good	Good	Good	Maintain, upgrade security for Court and Building/Planning
Fire Station #1/HQ	Excellent	Excellent	Excellent	Renovate administrative areas for greater efficiencies
Fire Station #2	Poor	Poor	Poor	Replace
Fire Station #3	Good	Good	Good	Maintain current use
Fire Station #4	Poor	Poor	Poor	Renovation
Fire Station #5/Beach PS	Excellent	Excellent	Excellent	Maintain current use and possible expansion for equipment storage
Library	Good	Good	Good	Renovate to add meeting and flexible spaces
Museum	Good	Good	Good	Maintain and replace entry steps
Police Station/Jail	Poor	Poor	Poor	Renovate or replace
Public Works Site	Fair	Fair	Fair	Maintain and consider relocating the Recycling operations
Public Works - Landscape	Excellent	Excellent	Excellent	Maintain current use, consider relocation of PW activity to this site
Recreation	Good	Good	Good	Maintain current use, consider reuse of the public lobby
Tennis Building	Excellent	Excellent	Excellent	Maintain current use

4. Summary of Space Needs

Space projections were completed for current needs and projected in five-year increments over the 20-year planning horizon. The following table summarizes the space projections developed by the project team based on current and projected staff needs. Space projections are in useable square feet, as described in greater detail in subsequent chapters of this report.

Projected Space Needs

Department/Division	Existing Space	Projected Space (2020)	Projected Space (2025)	Projected Space (2030)	Projected Space (2035)	Projected Space (2040)
Administrative Functions						
Executive Office	4,545	3,900	4,125	4,125	4,125	4,125
City Clerk	1,140	1,050	1,050	1,050	1,050	1,050
Municipal Court	4,727	4,600	4,600	4,750	4,750	4,900
Revenue	858	750	875	875	875	1,000
Purchasing	120	125	125	250	250	250
Accounting	607	500	500	500	500	500
Finance Admin	630	450	450	450	450	450
Human Resources	488	550	550	550	550	550
Information Technology	1,019	1,050	1,050	1,175	1,175	1,175
Building	1,585	1,450	1,450	1,600	1,600	1,750
Planning and Zoning	1,178	1,300	1,300	1,450	1,450	1,450
Total Administrative	16,897	15,725	16,075	16,775	16,775	17,200
Police Department						
Police - Admin	544	950	950	950	950	950
Police - Communications	420	925	1,125	1,125	1,325	1,325
Police - P&E	720	1,225	1,425	1,525	1,625	1,725
Police - Records/Support	323	750	875	875	875	875
Police - Patrol	2,210	3,425	3,425	3,625	3,625	3,625
Police - Special Ops	500	1,150	1,150	1,200	1,200	1,250
Police - Detectives	2,146	2,140	2,140	2,290	2,900	3,350
Police - Training	800	800	925	1,125	1,125	1,325
Police - Jail	5,673	7,125	7,375	7,625	7,875	8,125
Police Total Space	13,336	18,490	19,390	20,340	21,500	22,550
Fire Rescue Department						
Fire Station #1 - Admin	3,862	3,828	3,978	3,978	3,978	3,978
Fire Station #1 - Ops	3,360	3,575	3,575	3,575	3,575	3,575
Fire Station #2	3,540	4,125	4,125	4,125	4,125	4,125
Fire Station #3	2,900	3,125	3,125	3,125	3,125	3,125
Fire Station #4	5,200	6,250	6,250	6,250	6,250	6,250
Fire Station #5 (NEW)	0	0	0	5,250	5,250	5,250
Fire Training Center	0	4,000	4,000	4,500	4,500	4,500
Total Fire Rescue	18,862	24,903	25,053	30,803	30,803	30,803
Recreation and Cultural Affairs						
RCA - Admin	1,040	950	950	1,075	1,075	1,075
Library	10,500	11,100	12,900	12,900	12,900	12,938
Museum	1,920	2,150	2,150	2,200	2,200	2,200
City Store	1,191	2,200	2,200	2,200	2,200	2,200
Adult Activity Center	5,070	5,070	5,070	5,070	5,070	5,070
Recreation Center	73,444	73,444	73,444	73,444	73,444	73,444
Tennis Center - Pool House	3,200	3,200	3,200	3,200	3,200	3,200
Tennis Center	2,430	2,430	2,430	2,430	2,430	2,430
Civic Center	10,000	10,000	10,000	10,000	10,000	10,000
Cultural Center	27,615	27,465	27,465	27,465	27,465	27,465

Department/Division	Existing Space	Projected Space (2020)	Projected Space (2025)	Projected Space (2030)	Projected Space (2035)	Projected Space (2040)
RCA Total	136,410	138,009	139,809	139,984	139,984	140,022
Public Works/Engineering						
Engineering	550	625	625	625	625	625
Public Works - Administration	988	875	875	875	875	875
Public Works - Streets	4,350	4,300	4,300	4,300	4,600	4,600
Public Works - Recycling	3,500	3,500	0	0	0	0
Public Works - Fleet	8,400	9,100	9,100	9,100	9,100	9,100
Public Works - Building	9,100	9,100	9,100	9,100	9,100	9,100
Public Works - Landscape	5,000	5,000	5,000	5,000	5,000	5,000
Public Works Total	31,888	32,500	29,000	29,000	29,300	29,300
GRAND TOTAL	217,393	229,627	229,327	236,902	238,362	239,875

Overall, a total of 229,627 square feet are needed in 2020. This is an increase of 12,234 square feet than is currently allocated. By 2040, a total of 239,875 square feet are recommended which is a shortfall of 22,482 square feet over currently available space.

5. Summary of Facility Scenario Estimated Cost

The project team developed four facility scenarios to provide adequate work space for City operations through 2040. Each option includes a combination of new purpose built facilities and renovation of existing space. The four options that were analyzed include:

- Option 1 – Remodel Police HQ and Expand Existing Facilities
- Option 2 - All New Construction
- Option 3 – Demo Police HQ/City Hall, Expand 203/205 Site
- Option 4 - Repurpose City Hall to Law Enforcement

For each option, a construction cost estimate range (in 2020 dollars) was developed to correspond with the entire building gross square footage (BGSF). The preliminary construction cost estimates are shown in the following table.

Summary of Estimated Construction Cost			
	BGSF	Low Cost	High Cost
Option 1	72,782	\$11,498,300	\$15,937,080
Option 2	80,250	\$20,097,500	\$23,792,500
Option 3	74,466	\$16,940,300	\$19,928,780
Option 4	77,482	\$13,616,500	\$17,112,780

Construction cost estimates range from a low of \$11.5 million to a high of \$23.8 million.

2. Current State and Assumptions

December 11, 2020

Honorable Robert Craft
Mayor
City of Gulf Shores, Alabama
1905 West 1st Street
Gulf Shores, Alabama 36602

SUBJECT: City of Gulf Shores Justice Center Capital Planning

Dear Mayor Craft:

Please find enclosed the following Agreement to provide professional services related to the **City of Gulf Shores Justice Center**.

This Project, this Agreement, and our relationship will be governed by the general conditions which are attached hereto, and by reference, made a part hereof. If the attached scope of work, proposed fee, and general conditions are acceptable, please indicate your acceptance of the proposal, scope of work and method of compensation by signing below and returning for our files.

Thank you for the opportunity to provide these services. If you have any questions or comments or require additional information, please contact us.

Sincerely,



Leon M. Barkan, CCM
Chief Operating Officer

Enclosure

ACCEPTED: _____

BY: _____

TITLE: _____

CLIENT NAME: _____

DATE: _____

GENERAL CONDITIONS FOR LETTER AGREEMENT

This Agreement made and entered into this 11th day of December, 2020 by and between The City of Gulf Shores, hereinafter referred to as the OWNER, and Volkert, Inc., hereinafter referred to as the CONSULTANT;

WHEREAS, the OWNER desires to retain the CONSULTANT to perform certain professional engineering services as outlined in the Scope of Work.

SECTION I – SCOPE OF WORK

CONSULTANT'S Scope of Work hereunder is finite and limited to only those items explicitly stated or enumerated herein or attached hereto. Any work or services desired by OWNER that are not stated herein or attached hereto shall be considered Extra Work and shall entitle CONSULTANT to mutually agreed-upon additional compensation.

CONSULTANT shall provide the following services to assist the City of Gulf Shores with preliminary planning through schematic design efforts for a new City Justice Center Facility

- 1) **Architect Selection** - participate in review of proposals, develop interview questions, participate in architect interviews.
- 2) **Architect Contracting** - assist with development of contract form and negotiation of contract terms.
- 3) **Architect Orientation** - conduct an Architect orientation session in which all project parameters such as schedule and design requirements, budget requirements, program requirements, site conditions, and other physical and Owner administrative constraints will be made known to the Architect.
- 4) **Program Verification and Design Criteria Definition** - in collaboration with the Owner and Architect, refine the initial program developed previously by Matrix Consulting Group for the new facility. Additionally, Consultant shall assist the Owner with definition of the design criteria for the facility to include aesthetic considerations, building systems and amenities.
- 5) **Program Budget** – based upon the defined and approved Program, develop an all inclusive Total Program Budget to establish budgetary costs for all hard and soft costs necessary to deliver a fully functional facility. The Total Program Budget shall enumerate hard and soft costs as well as provide the Owner with cost alternatives depending on potential amenity and scope and alternates.
- 6) **Program Schedule** – develop an overall master schedule defining durations for specific project phases.

CONSULTANT shall also provide the following services for additional facilities

- 7) **Preliminary Site Selection and Programming of Fire Training Tower** – in

collaboration with the Owner and Architect, aid in site evaluation and preliminary programming and budgeting of a new Fire Training Tower Facility for the City of Gulf Shores

- 8) **Reprogramming of Vacated Office Space** – in collaboration with Owner and Architect, develop a space reutilization program for existing office space vacated by the relocation of police personnel and the municipal court into the new Justice Center.
- 9) **New Fire Station** – in collaboration with the Owner and Architect, aid in the site evaluation and preliminary programming and budgeting of a new Fire Station to service the northeast quadrant of the City of Gulf Shores.

SECTION II – TERMS OF PAYMENT

- A. Partial payments for all services performed by the CONSULTANT under the terms of the Agreement shall be made no more often than monthly to the CONSULTANT by the OWNER upon receipt of invoices and other evidence of performance as may be deemed necessary by the OWNER. Payments shall be due and payable within thirty (30) days of the date of invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate of one and one-half (1 ½%) per month and OWNER shall reimburse CONSULTANT for any expenses, including legal costs, incurred in collection of outstanding amounts due from OWNER.
- B. The OWNER will pay the CONSULTANT for special services performed by Subconsultants at the actual invoice amount times a factor of 1.10 for assisting and coordinating the Subconsultant's services.
- C. Reimbursable expenses are defined as follows:

Travel and subsistence cost, printing and reproduction, computer services, advertising costs, mail distribution costs, permit fees, application fees or deposits, and all other costs incidental to performing the assignment.
- D. The OWNER as purchaser of the services described herein shall pay any applicable sales tax in the manner and in the amount as required by law.
- E. The total fee for professional services shall not exceed Twenty Seven Thousand Five Hundred Dollars (\$27,500.00) unless authorized by OWNER.
- F. Payment shall be made payable to Volkert, Inc. and submitted to the following address:
Dept. #2042, Volkert, Inc., P.O. Box 11407, Birmingham, AL 35246-2042.

SECTION III – MISCELLANEOUS

- A. Extra Work: It is mutually understood and agreed that the OWNER will compensate the CONSULTANT for services resulting from changes in the scope of a project or its design, including but not necessarily limited to, change in size, complexity, project

schedules, character of construction, revisions to previously accepted studies, reports, design documents or contract documents and for preparation of documents for separate bids, when such revisions are due to causes beyond the CONSULTANT'S control and when requested or authorized by the OWNER. Compensation for such extra work when authorized by the OWNER shall be mutually agreed upon prior to beginning work.

- B. Ownership and Reuse of Documents: All Project documents including but not necessarily limited to reports, drawings, studies, findings, correspondence, specifications, survey notes, estimates, maps, computations, calculations, computer files, Computer Assisted Design and Drafting (CADD) files (electronic and hard copy), and other data, as well as any and all other documents and other materials prepared, generated, or furnished by or for CONSULTANT and/or its Subconsultant(s) for the Project pursuant to this Agreement (hereinafter referred to in this Section B. as "Documents") are instruments of service with respect to the Project, and CONSULTANT shall retain an ownership and intellectual property interest therein regardless whether the Project is completed. OWNER is hereby granted a royalty-free, non-exclusive, limited-use license therein, and may make and retain copies thereof for information and reference in connection with the use and/or occupancy of the Project by OWNER and others. However, such Documents are not intended for reuse or future use by OWNER or others for any purpose whatsoever or on any other project, and the limited-use license granted hereunder does not apply to any future use. No representation is made that such Documents are or will be suitable for reuse or future use by OWNER or others for any purpose whatsoever or on any other project. Any use of such Documents by OWNER or others on any project other than the project which is the subject of this Agreement is not advised and shall be done without warranty, representation, or liability to any extent whatsoever on the part of CONSULTANT. OWNER shall defend, indemnify, save and hold harmless CONSULTANT, its officers, directors, employees, agents, successors, and assigns against any and all liability for any and all claims, demands, fines, fees, damages, actions, causes of action, lawsuits, expenses (including attorneys' fees), mediations, and arbitrations arising out of, resulting from, or relating in any way to the OWNER'S use of such Documents.
- C. Exclusivity of Remedies: To the fullest extent permitted by law, the total liability, in the aggregate, of CONSULTANT and CONSULTANT'S officers, directors, employees, agents and independent professional associates and Consultants, and of any of them, to OWNER and anyone claiming by, through or under OWNER, for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to CONSULTANT'S services, the project or this Agreement from any cause or causes whatsoever, including but not limited to the negligence, errors, omissions, strict liability or breach of contract by CONSULTANT or CONSULTANT'S officers, directors, employees, agents or independent professional associates or Consultants, or any of them, shall be limited to and shall not exceed the total compensation received by CONSULTANT under this Agreement, but in no event shall exceed the amount of available insurance proceeds

D. Insurance & Indemnification: CONSULTANT shall procure and maintain the types and amounts of insurance as are set forth below. CONSULTANT shall cause OWNER to be an additional insured on CONSULTANT's policy of commercial general liability and automobile liability insurance. :

<u>TYPE OF COVERAGE</u>	<u>LIMITS</u>
I Worker's Compensation Employer Liability	State – Statutory \$1,000,000 Per Accident \$1,000,000 Disease/Each Accident \$1,000,000 Disease/Policy Limit
II Comprehensive or Commercial General Liability	\$1,000,000 Per Person Bodily Injury \$1,000,000 Per Occurrence Bodily Injury \$1,000,000 Property Damage \$2,000,000 Policy Aggregate
III Automobile Liability	\$1,000,000 Combined Single Limit
IV Professional Liability	\$2,000,000 Each Claim \$2,000,000 Annual Aggregate

Indemnification by CONSULTANT. To the fullest extent permitted by law, and up to the limits of the Exclusivity of Remedies provision contained herein, CONSULTANT shall indemnify OWNER and OWNER's officers, directors and employees for costs, losses, judgments, damages and expenses (including reasonable attorneys' fees) to the extent caused by the negligent acts, errors and omissions of CONSULTANT in the performance of its professional Services hereunder. In any matters involving allegations of negligent performance of professional Services by CONSULTANT, CONSULTANT's defense duties under this indemnification provision (which are expressly disclaimed) shall include only reimbursement of reasonable defense costs to the extent incurred as a proximate result of CONSULTANT's actual negligent performance.

Indemnification by OWNER. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless CONSULTANT and its officers, directors, members, partners, agents, employees, and subconsultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property, including the loss of use resulting therefrom, but only to the extent caused by any negligent act, omission, or willful misconduct of OWNER or OWNER officers, directors, members, partners, agents, employees, consultants, or others retained by or under contract to the OWNER with respect to this Agreement or to the Project.

E. Termination:

1. For cause,

(a) By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

(b) By CONSULTANT:

(1) upon seven days written notice if OWNER demands that CONSULTANT furnish or perform services contrary to CONSULTANT's responsibilities as a licensed professional; or

(2) upon seven days written notice if the CONSULTANT's services for the Project are delayed or suspended for more than 90 days for reasons beyond CONSULTANT's control.

(3) CONSULTANT shall have no liability to OWNER on account of such termination.

(c) Notwithstanding the foregoing, this Agreement will not terminate under Paragraph III.E.1 if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience,

(a) By OWNER effective upon CONSULTANT's receipt of notice from OWNER.

3. Effective Date of Termination. The terminating party may set the effective date of termination at a time up to 30 days later than otherwise provided to allow CONSULTANT to demobilize personnel and equipment from the Project site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

4. Payments upon Termination

(a) In the event of any termination, CONSULTANT will be entitled to invoice OWNER and to receive full payment for all Services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the effective date of termination.

(b) In the event of termination by OWNER for convenience, or by CONSULTANT for cause, CONSULTANT shall be entitled, in addition to invoicing for those items identified in Paragraph III.E.4(a), to invoice OWNER and

to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with CONSULTANT's subconsultants, and other related close-out costs, using methods and rates for Additional Services as set forth herein.

F. Time of Completion: In accordance with the Standard of Care set out herein, all services under this Agreement will commence upon authorization to proceed from the OWNER.

G. Successors and Assigns:

1. OWNER and CONSULTANT each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and CONSULTANT (and to the extent permitted by Section III.G.2, the assigns of OWNER and CONSULTANT) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

2. Neither OWNER nor CONSULTANT shall assign, sublet or transfer any rights under or interest in (including but without limitation, monies that may become due or monies that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent CONSULTANT from employing such independent professional associates and Consultants as CONSULTANT may deem appropriate to assist in the performance of services hereunder.

3. Nothing under this Agreement shall be construed to give any right or benefits in this Agreement to anyone other than OWNER and CONSULTANT, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and CONSULTANT and not for the benefit of any other party.

H. Dispute Resolution: If a dispute arises out of or relates to this Agreement or its alleged breach, the OWNER and CONSULTANT shall direct their representatives to endeavor to settle the dispute first through direct discussions. If the dispute cannot be resolved through direct discussions, the OWNER and CONSULTANT shall participate in mediation before recourse to litigation. The OWNER's and CONSULTANT's representatives shall attend all mediation sessions. Engaging in mediation is a condition precedent to litigation. Only after the parties have exhausted direct discussions AND mediation in accordance with the foregoing shall either of them be entitled to initiate litigation. Should either party initiate litigation prior to engaging in direct discussions, good faith mediation, and arbitration, it shall pay all attorneys' fees and expenses and other costs incurred by the other party in responding to said litigation. Any provisions

herein to the contrary notwithstanding, OWNER and CONSULTANT hereby agree that any disputes between them will be tried to the Bench and not to a jury, and each of them willfully and voluntarily waives its right to trial by jury for any dispute arising out of this Agreement.

- I. Right of Entry: OWNER shall arrange for safe access to, and make all provisions for, CONSULTANT to enter upon public and private property as may be required for CONSULTANT to perform Services hereunder. CONSULTANT shall take reasonable precautions to minimize damage to the property during the course of its Services. OWNER acknowledges that a certain amount of damage, wear and tear, and depreciation is likely to result from CONSULTANT's operations on the property in furtherance of CONSULTANT's Services under this Agreement. The cost for restoration or remediation of damaged property which may result from CONSULTANT's operations is not included in CONSULTANT's compensation hereunder unless explicitly stated otherwise in this Agreement. If the property is damaged during CONSULTANT's operations and if OWNER desires CONSULTANT to restore or remediate the property to its former condition, CONSULTANT will do so for additional compensation.
- J. Standard of Care: CONSULTANT shall endeavor to perform its services hereunder consistent with the professional skill and care ordinarily exercised by similarly situated professional consultants practicing under similar conditions at the same time in the same or similar locality. No warranty, express or implied, is made or intended related to the services provided herein, and CONSULTANT guarantees no particular result.
- K. Disclaimer of Third-Party Benefits: OWNER and CONSULTANT expressly disclaim third-party beneficiaries hereunder and no one not a Party to the Agreement shall be entitled to seek enforcement against OWNER and/or CONSULTANT of any provision herein, or to otherwise seek damages from either Party for the alleged breach of any provision contained herein or purported duty or standard created or conferred hereunder. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a Party to the Agreement to maintain a claim, cause of action, lien or any other damages or any relief of any kind pursuant to the terms and provisions of this Agreement.
- L. Waiver of Consequential Damages: Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither OWNER nor CONSULTANT, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation, or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both OWNER and CONSULTANT shall require similar waivers of consequential damages protecting all of the entities and persons named herein in all contracts and subcontracts with others involved in this Project.

- M. Waiver of Subrogation: Owner and CONSULTANT hereby mutually waive all rights of subrogation, as well as all claims and other rights they may have against each other for loss of and/or damage to (a) the Work and any Project therein, (b) all materials, machinery, equipment and other items used in the Project and/or to be incorporated into the Project, while the same are in transit, at Project sites, during erection and otherwise, and (c) all property owned by or in the custody of OWNER and its affiliates, however such loss or damage shall occur, except such rights as they may have to the proceeds of such instance held by the OWNER as trustee. If OWNER is not the sole owner of the Project sites and all property at and adjacent thereto, OWNER shall obtain an undertaking from the other owners thereof sufficient to provide CONSULTANT the same protection from liability for loss or damage as would be afforded to CONSULTANT under this Agreement if OWNER were the sole owner. OWNER shall cause all policies of property insurance relating to the Project to contain a provision or endorsement to the effect that in the event of payment of any loss or damage, the insurers will have no rights of recovery against CONSULTANT or its subconsultants, or any insureds, additional insureds, or loss payees thereunder.
- N. Jurisdiction/Venue: It is expressly agreed and stipulated between the parties that this contract shall be deemed to have been executed in the State of Alabama where the principal office of Volkert, Inc. is located. This Agreement shall be governed by the laws of the State of Alabama and any disputes related to or arising out of this Agreement or its alleged breach shall be brought in the appropriate courts of the State of Alabama, exclusive of its choice of law provisions.